



Australian Government
**Department of Immigration
and Border Protection**

Inquiry into the Migration Amendment (Skilling Australians Fund) Bill 2017 and the Migration (Skilling Australians Fund) Charges Bill 2017

Senate Education and Employment Legislation
Committee



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Introduction

The Department of Immigration and Border Protection (the Department) welcomes the opportunity to provide a submission to the Senate Education and Employment Legislation Committee Inquiry into the *Migration Amendment (Skilling Australians Fund) Bill 2017* (the Amendment Bill) and the *Migration (Skilling Australians Fund) Charges Bill 2017* (the Charges Bill).

This submission explains the measures included in the Bills and the policy context for these measures.

The Bills provide a framework for the collection of a nomination training contribution charge, to be known as the Skilling Australians Fund (SAF) levy from employers nominating temporary and permanent overseas skilled workers.

The purpose of the SAF levy is to require employers seeking to access overseas skilled workers to contribute to the broader skills development of Australians. This measure is an important element of the Government's employer sponsored skilled migration reforms which ensure that Australian workers are given the first priority for jobs in Australia. The SAF Bills do not deal with expenditure through the SAF, which is administered by the Department of Education and Training (DET) to support the skills development and training opportunities for Australian citizens and permanent residents.

Feedback from stakeholder consultations has demonstrated broad stakeholder support for the intent of the skilled migration reforms and the use of skilled overseas workers where Australians with the relevant skills are not available, so long as an employer seeking to employ an overseas worker first offers employment and training opportunities to Australians.

Measures in the Bills

The SAF levy was developed following recommendations in the 2014 report by the Independent Review into the integrity of the subclass 457 program, "Robust New Foundations - A Streamlined, Transparent and Responsive System for the 457 Program" (subclass 457 Integrity Review) and was supported by the Senate Inquiry into the exploitation of temporary workers in Australia (Temporary Worker Senate Inquiry). These reviews recommended that employers seeking to access overseas skilled workers pay a contribution to the broader skills development of Australians. This approach helps build capability and skills of the Australian workforce thereby reducing longer term reliance on overseas skilled workers. It will increase public confidence that skilled migration, and the businesses that bring in skilled migrants, are doing their part to help Australians prepare for the workforce.

The Charges Bill imposes the nomination training contribution charge payable under proposed section 140ZM of the Migration Act, sets a charge limit for the nomination training contribution charge which must not be exceeded and provides for the indexation of the charge limit. It also provides that the amount of the nomination training contribution charge is to be prescribed in the Migration Regulations, and that the Regulations may prescribe different charges for different kinds of visas or persons.

The Amendment Bill amends the Migration Act to provide that the Migration Regulations may make provisions for a range of matters relevant to the nomination training contribution charge, including:

- the kinds of nominations that are subject to the nomination training contribution charge, including the kinds of visas the nomination relates to:
 - it is intended that the visas to be prescribed are the Temporary Skill Shortage (TSS) visa (which is to replace the Temporary Work (Skilled) subclass 457 visa), the Employer Nomination Scheme (ENS) (subclass 186) visa and the Regional Sponsored Migration Scheme (RSMS) (subclass 187) visa.
- the amount and method of payment of the nomination training contribution charge; and
- the remission or refund and recovery of underpayment of the nomination training contribution charge.

Employers will be charged the SAF levy for each overseas worker nominated to fill a vacancy in Australia. The amount of the levy will depend on the size of the business and the type and duration of the visa that the worker is nominated for. The SAF levy for the entire proposed period that the temporary worker intends to work in Australia will be collected at the time the employer nominates the overseas worker for sponsorship.

There will be no levy exemptions, reflecting the policy intent that employers seeking to access overseas skilled workers contribute to the broader skills development of Australians. However, the SAF levy will be tax deductible and employers will not be simultaneously subject to the SAF levy and the existing training benchmark requirements.

Replacing existing training benchmark requirements

The nomination training contribution charge will replace the current training benchmark requirements which the subclass 457 Integrity Review and the Temporary Worker Senate Inquiry found to be ineffective. Under the training benchmarks employers sponsoring a worker under the subclass 457 visa or nominating a worker under the Direct Entry stream of the subclass 186 visa are required to spend:

- the equivalent of at least two per cent of their business' payroll in contributions to an industry training fund (training benchmark A); or
- the equivalent of at least one per cent of their business' payroll on the training of Australians (training benchmark B).

The proposed new training fund contribution model aims to make compliance and monitoring simpler by removing the need for employers to maintain complex records to demonstrate expenditure to meet the current training benchmark requirements. The SAF levy will reduce the regulatory burden on employers and provide improved training outcomes for Australians compared to the existing training benchmark requirements. The administration of the SAF will increase the transparency and accountability of training contributions made by employers utilising the skilled migration program.

Stakeholder support

The 457 program has been the subject of a number of enquiries and reviews. These reviews have involved wide consultation and feedback from a broad range of stakeholders, including industry peak bodies and associations, unions, government, businesses, migration agents and academics.

Feedback from stakeholder consultations indicated broad stakeholder support for the intent of the skilled migration reforms and the use of skilled overseas workers where Australians with the relevant skills are not available. These consultations included industry roundtables held in Melbourne, Sydney and Canberra in April and May 2017, the 457 Integrity Review, inter-departmental committee meetings between the Department and other federal government agencies and departments.